

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

GARY L. PEARCE	:	
1657 Kenmare Drive	:	
Dresher, PA 19025	:	
And	:	
PEARCE ENTERPRISES LLC.	:	
1657 Kenmare Drive	:	
Dresher, PA 19025	:	
Plaintiffs	:	
v.	:	CASE NO.: 21-2874
	:	
CESSNA FINANCE CORPORATION	:	
Two Cessna Blvd., Suite 100	:	
North Wichita, KS 67204	:	
Defendant	:	

CIVIL ACTION COMPLAINT

PARTIES

1. Plaintiffs are GARY L. PEARCE and PEARCE ENTERPRISES LLC, both of who are located at 1657 Kenmare Drive, Dresher, PA 19025.
2. Defendant, CESSNA FINANCE CORPORATION, is a corporation doing business at Two Cessna Blvd., Suite 100, North Wichita, KS 67204.

II. FACTUAL BACKGROUND

3a. Jurisdiction in this case is based upon Diversity of Citizenship as all Plaintiffs and all Defendants are citizens of different states, wherein the Plaintiffs are citizens of the State of Pennsylvania and the Defendants are citizens of the State of Kansas and the amount in controversy exceeds the sum of \$150,000, exclusive of interest and costs.

3b. In and around 2006, the Plaintiffs purchased a Cessna 206 airplane for approximately Five Hundred Thousand (\$500,000) Dollars. As payment thereof Plaintiff deposited approximately Ten Thousand (\$10,000) Dollars and financed Four Hundred Ninety Thousand (\$490,000) Dollars. This plane was turned back to Defendant after Plaintiff was advised by Defendants duly authorized agents, that they would resell the plane, so that he would owe nothing, as they could easily resell it for in excess of what was still owed on the original sale. In 2011, the dealer sold it 3 years later for approximately Two Hundred Sixty Thousand (\$260,000) Dollars, which left approximately Forty Thousand (\$40,000) Dollars still owed. This was obviously a major misrepresentation by the Defendants.

4. This balance was then termed out as a seven (7) year loan of which the Plaintiffs paid Five Hundred (\$500) Dollars per month for approximately eighty-six (86) months, for a total of Forty-three Thousand (\$43,000) Dollars.

5. At the time that the plane was turned back there was approximately Three Hundred Thousand (\$300,000) Dollars owed on the Note for the plane.

6. At the time of the signing of the Note, Plaintiffs concedes that Pearce Enterprises LLC, did sign that Note. However, the Defendant, Gary L. Pearce, as an individual never signed the Note or any other documents indicating individual liability for him with respect to the obligation with regard to the plane either as a guarantor or otherwise.

7. Defendant, Gary L. Pearce, believes and therefore avers that if any signature appears on the loan documents with respect to him agreeing to individual liability, it

is a forgery; as he never signed those Notes, or any other documentation as an individual.

8. In and around approximately November, 2020, said Plaintiff stopped paying on said Note when he first realized that there was no individual liability, as per the above.

9. Approximately three (3) months after the Plaintiff stopped payment on said Note in the amount of Five Hundred (\$500) Dollars per month, the Defendant filed in the Court of Common Pleas in Philadelphia, loan documentation in order to take a Judgement against the Plaintiffs, in June of 2015.

10. That the Philadelphia Foreign Judgement was later transferred to Montgomery County on or about 12/7/20 under the following identifying information, No. 2020-20199, and against Pearce Enterprises LLC and against Gary Pearce. However it was wrongfully captioned as Cessna Finance Corporation vs PEARDE Enterprises LL, on the Philadelphia docket.

11. Wrongfully, on or about April 27, 2020, the Defendant attempted to seize the bank accounts of the Plaintiff located at TD Bank, as Defendant has proceeded to collect the above sum wrongfully, against the Plaintiff individual, Gary Pearce.

COUNT I

WRONGFUL APPROPRIATION OF CORPORATE ASSETS, BREACH OF FIDUCIARY DUTY, CONVERSION, AND CIVIL CONSPIRACY

12. Plaintiff incorporates the allegations contained in paragraphs 1 through 11, above, as though the same were set forth herein at length.

13. As a result of the actions and inactions more fully set forth above, Plaintiff has been caused grave injury to its business relations.

14. As a further result of the actions and inactions more fully set forth above, Plaintiff has suffered serious injury to both its goodwill, as well as its reputation.

15. Defendants' outrageous conduct more fully set forth above has caused serious damage to the business relations of Plaintiff.

16. The above actions and inactions of the Defendant were committed intentionally, deliberately, maliciously and fraudulently thereby imposing liability on the defendants for punitive damages as well as compensatory damages, and entitling the plaintiff to injunctive relief.

WHEREFORE, Plaintiff demands judgment in its favor and against defendants jointly and severally in a sum in excess of Five Hundred Thousand (\$500,000) Dollars along with punitive damages and any other relief the Court deems just and proper.

COUNT II

BREACH OF CONTRACT

17. Plaintiff incorporates the allegations contained in paragraphs 1 through 16, above, as though the same were set forth herein at length.

18. As a direct and proximate result of Defendants' breach, Plaintiff has been damaged.

WHEREFORE, Plaintiff demands judgment in its favor and against defendants jointly and severally in a sum in excess of Five Hundred Thousand (\$500,000) Dollars along with punitive damages and any other relief the Court deems just and proper.

COUNT III

FRAUD IN THE INDUCEMENT

19. Plaintiffs incorporate by allegations of paragraphs 1 through 18, as set forth fully herein.

20. As a direct and proximate result of the Defendants misrepresentations, particularly those stated by Defendant's duly authorized agents that they could "get him out of the Note, free and clear" by reselling the plane, Plaintiffs have suffered direct losses and consequential damages in excess of Five Hundred Thousand (\$500,000) Dollars.

21. Defendant's actions were willful, vexatious, malicious and without reasonable justification or excuse. These actions were undertaken by the Defendant with the sole intent to harm the Plaintiffs and wrongfully expose him to individual liability, via the forging of his signature. Therefore, Plaintiff has also suffered punitive damages in the amount in excess of Two Hundred Fifty Thousand (\$250,000) Dollars to be set by the Court, which is just and proper.

WHEREFORE, Plaintiff demands that Judgment be entered in his favor and against Defendant, in an amount in excess of Five Hundred Thousand (\$500,000) Dollars. Further, that this Court may award such other and additional relief as the Court may deem just and proper.

COUNT IV

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AND TORTIOUS INTERFERENCE

22. Plaintiff restates all previous allegations fully herein.

23. At all times relevant, Defendant owed a duty to Plaintiff to refrain from interfering with Plaintiff's business activities and ruining his credit.

24. By misrepresenting to Plaintiff as referred to above, Defendant tortuously interfered with Plaintiff's actions and intentionally has caused the Plaintiff great emotional pain and loss and have engaged in egregious and vexatious activity to harm the Plaintiff, as to give rise to punitive damages to be decided by the Court.

25. Plaintiff has been damaged and incurred financial loss by the foregoing conduct in that Plaintiff in an amount in excess of Five Hundred Thousand (\$500,000) Dollars and punitive damages in excess of Two Hundred Fifty Thousand (\$250,000) Dollars.

WHEREFORE, Plaintiff demands Judgment in their favor against Defendants in an amount at minimum in excess of Seven Hundred Fifty Thousand (\$750,000) Dollars.

COUNT V

MISREPRESENTATION

26. Plaintiff restates all previous allegations fully herein.

27. Plaintiff has been damaged and incurred financial loss by the foregoing conduct in that the Plaintiff has been damaged in an amount in excess of Seven Hundred Fifty Thousand (\$750,000) Dollars.

WHEREFORE, Plaintiff demands Judgment in their favor against Defendant in an amount in excess of Seven Hundred Fifty Thousand (\$750,000) Dollars.

COUNT VI

INJUNCTION, EQUITABLE RELIEF AND CEASE AND DESIST

28. Plaintiff restates all previous allegations fully herein.

29. That the Defendant is engaging in a course of conduct which will continue to damage the Plaintiff as stated previously.

30. That separate and apart from the legal damages set forth herein, the Plaintiff demands this Honorable Court to enter an injunction against the Defendant to Cease and Desist from any further collection efforts and to dismiss any and all liens on TD Bank and others in connection, in any way shape or form.

31. That further violation thereof will generate a penalty of at least Three Thousand (\$3,000.00) Dollars per day in addition to any restrictions the Court imposes pursuant to this equitable theory.

WHEREFORE, Plaintiff prays this Honorable Court, to enter a Cease and Desist Order against the Defendant and such other relief as the Court deems just and proper.

Respectfully Submitted,

DATED: 6/24/2021

By: /s/ Jeffrey D. Servin, Esquire
JEFFREY D. SERVIN, ESQUIRE
Attorney for Plaintiffs
Attorney I.D. 19958
1800 JFK Blvd., Suite 300
Philadelphia, PA 19103
Phone: (215) 665-1212
Fax: (215) 654- 0357
Email: JDServin@comcast.net

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury as to all issues.

/s/ Jeffrey D. Servin, Esquire
JEFFREY D. SERVIN, ESQUIRE

VERIFICATION

I, GARY PEARCE, being duly sworn, according to law, depose and say that I am one of the Plaintiffs in the foregoing Complaint and that the facts set forth are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

DATED: _____

6/4/2021

GARY L. PEARCE

Gary L. Pearce

JS 44 (Rev. 10/20)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Gary L. Pearce and Pearce Enterprises LLC

(b) County of Residence of First Listed Plaintiff Montgomery
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorneys (Firm Name, Address, and Telephone Number)
Jeffrey D. Servin, Esquire - 215-665-1212
1800 JFK Blvd., Suite 300
Philadelphia, PA 19103**DEFENDANTS**

Cessna Finance Corporation

County of Residence of First Listed Defendant North Wichita, KS
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609
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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 1657 Kenmare Drive, Dresher, PA 19025

Address of Defendant: Two Cessna Blvd., Suite 100, North Wichita, KS 67204

Place of Accident, Incident or Transaction: Montgomery County, PA

RELATED CASE, IF ANY:

Case Number: N/A

Judge: _____

Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|-----------------------------|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☐ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: _____ Must sign here

Attorney-at-Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

CIVIL: (Place a √ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases
(Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): _____
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☒ 9. All other Diversity Cases
(Please specify): Fraud & Misrepresentation

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Jeffrey D. Servin, Esquire, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 06/29/2021

Attorney-at-Law / Pro Se Plaintiff

19958

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.